

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARLINGTON AMADASU,	:	Case No. C-1-01-210
	:	
Plaintiff,	:	Judge Dlott
	:	
v.	:	Magistrate Judge Black
	:	
JAMES R. DONOVAN, M.D., <u>et al.</u>	:	OHIO DEFENDANTS' REPLY
	:	MEMORANDUM IN SUPPORT OF
Defendants.	:	MOTION TO STRIKE EXHIBITS TO
	:	PLAINTIFF'S MAY 27, 2005
	:	<u>DECLARATION</u>
	:	
	:	DECLARATION OF JUSTIN D.
	:	<u>FLAMM ATTACHED</u>

The Ohio Defendants submit that their June 13, 2005 motion to strike certain exhibits to Plaintiff Darlington Amadasu's May 27, 2005 Declaration should be granted in its entirety. As noted in the Ohio Defendants' motion (Doc. 110), Amadasu failed to produce the following exhibits in his initial disclosures or in response to the University of Cincinnati's January 6, 2005 requests for production of documents under Rule 34: Exhibits 1-3, 5-69, 71-75, 77, 79, 81, 83-84, 86-87, 89-91, 93, 95-104, 107-08, and 110-30. Additionally, two of those exhibits -- Exhibits 26 and 27 -- appear to be forgeries.

Amadasu's assertion that the exhibits at issue actually came from the Ohio Defendants is both beside the point and incorrect. First of all, it is no answer for Amadasu to assert that he is exempt from initial disclosures and other discovery obligations merely because the University -- a large public institution having possession of millions upon millions of various documents and records -- already has possession of the relevant materials. The purpose of initial disclosures and discovery is to prevent surprise and ambush, and that is precisely what Amadasu has done here.

Moreover, some of the exhibits at issue (Exhibit 26 and 27) appear to be forged. (See Doc. 110 and accompanying Declaration of James Donovan) Amadasu incorrectly asserts that those two exhibits were produced to him by the Ohio Defendants. (Declaration of Justin D. Flamm at ¶ 3). To the contrary, counsel for the Ohio Defendants saw those document for the first time when Amadasu filed them with the Court. (*Id.*)

Beyond those meritless arguments, Amadasu's opposition brief consists of little more than personal attacks on the individual Ohio Defendants and their counsel, along with allegations that the Court somehow colluded with Defendants to disadvantage Amadasu. (Amadasu Brief at 17: "For example, Magistrate and defendants collusively played plaintiff into their hands by making plaintiff serve and file amended complaint so as to circumvent their default and Rule 55(c) bar.").

For the reasons set forth in the Ohio Defendants' pending motion, the specified exhibits to Amadasu's May 27, 2005 declaration should be stricken.

Respectfully submitted,

By: /s/ Justin D. Flamm

Gregory Parker Rogers (0042323)
Justin D. Flamm (0071575)
Taft, Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202-3957
(513) 381-2838
(513) 381-0205 (fax)

Special Counsel for the Attorney
General of Ohio

Trial Attorneys for the Ohio Defendants

OF COUNSEL:

Mitchell D. McCrate (0047403)
Associate General Counsel
University of Cincinnati
Office of the General Counsel
300 Administrative Building
Cincinnati, Ohio 45221-0623
(513) 556-3483

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and served copies of the foregoing upon Darlington Amadasu, Plaintiff Pro Se, at P.O. Box 6263, Cincinnati, Ohio 45206, via hand delivery, and upon Christopher Coppola, counsel for Claudia Miller and the University of Texas Health Science Center at San Antonio, at Assistant Attorney General for the State of Texas, General Litigation Division, P. O. Box 12548, Capitol Station, Austin, TX 78711, via regular United States mail, postage prepaid, this 19th day of August, 2005.

By: /s/ Justin D. Flamm

Gregory Parker Rogers (0042323)

Justin D. Flamm (0071575)

Taft, Stettinius & Hollister LLP

425 Walnut Street, Suite 1800

Cincinnati, Ohio 45202-3957

(513) 381-2838

(513) 381-0205 (fax)

Special Counsel for the
Attorney General of Ohio

Trial Attorneys for the Ohio Defendants